



02 APR 2007

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Arlington Courthouse Plaza 1
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201

In re Application of	:	
Weinstein et al.	:	
Application No.: 10/566,586	:	DECISION
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	ON
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	PETITION
For: Compositions And Methods For	:	
Treating Or Preventing HIV Infection	:	

This is in response to applicants' response, filed 16 March 2007, to the decision on petition under 37 CFR 1.47(a) mailed on 28 February 2007.

DISCUSSION

In a Decision mailed on 28 February 2007, the petition under 37 CFR 1.47(a) filed on 19 December 2006 was dismissed as moot because

Applicants filed a petition under 37 CFR 1.47(a) on 19 December 2006, seeking to excuse the absence of the signature of joint inventor Dr. Kenneth Alibek. However, on 26 December 2006, applicants filed an "Amendment..." to the petition, indicating that "after the Petition was filed, Dr. Alibek decided to sign his supplemental declaration." Also filed on 26 December 2006 was a declaration document nominating and signed by Dr. Alibek. In view of the 26 December 2006 submission, the petition under 37 CFR 1.47(a) filed on 19 December 2006 is **DISMISSED AS MOOT**.

Inspection of the declaration filed on 26 December 2006 reveals that it consists of a single sheet, identified as "Page 2 of 2." This sheet neither identifies the patent application to which it is directed nor includes the statements required by 37 CFR 1.63. Moreover, it nominates only Dr. Alibek, and not the other inventors named in the published international application (Raymond Weinstein and Michael Weinstein). Moreover, the name appearing on the declaration, "Kenneth Alibek," differs from that appearing in the published international application ("ALIBEK, Ken"). To the extent that this discrepancy represents more than a typographical error or phonetic misspelling, a proper petition (and fee) would be required to accept the name as "Kenneth" rather than "Ken." See MPEP 605.04(b). As such, the declaration does not comply with the requirements of 37 CFR 1.497(a) and (b).

In response, applicants have submitted a newly executed declaration document. Review of said declaration reveals that it appears to have been assembled by combining sheets separately signed by each inventor into a single document. This impression is enhanced by counsel's

characterization of the declaration as a "complete set of signed declarations." Applicants' attention is drawn to MPEP 201.03, which explains in part that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

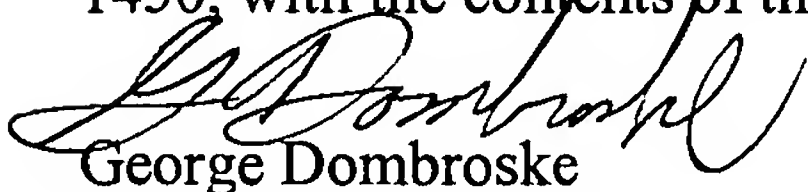
Since applicants do not appear to have submitted complete copies of each declaration document, it would not be appropriate to accept the declaration filed on 16 March 2007.

DECISION

The declaration filed on 16 March 2007 is **NOT ACCEPTED**, without prejudice.

Applicants must file an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the longer of either (a) **ONE (1) MONTH** from the mailing date of this decision (**NOT** extendable under 37 CFR 1.136(a)) or (b) the remaining period for response to the decision mailed on 28 February 2007, as extended under CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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